United Nations A/59/449

General Assembly

Distr.: General
21 October 2004

Original: English

Fifty-ninth session
Agenda item 120
Administration of justice at the United Nations

Administration of justice in the Secretariat

Report of the Secretary-General*

Summary

The present report is submitted in response to a request of the General Assembly in its resolution 57/307. In that resolution, the Assembly welcomed the initiative taken by the Secretary-General in requesting the Office of Internal Oversight Services to conduct a management review of the appeals process and requested the Secretary-General, taking due account of the findings of the Office of Internal Oversight Services, to report on alternatives for strengthening the administration of justice. In addition, the Assembly requested the Secretary-General to develop as a matter of priority an effective system of personal responsibility and accountability, including the issuance of an administrative instruction, to recover losses to the Organization caused by management irregularities, and to ensure that a department or programme manager whose decision is challenged by an appellant cooperates fully with and is accountable to the internal system of justice. The Assembly also requested the Secretary-General to undertake an in-depth analysis of the development of comprehensive legal insurance schemes to cover legal advice and representation for staff, to strengthen the Panel of Counsel, taking into account the report of the Office of Internal Oversight Services, and to provide statistics on the disposition of cases and information on the work of the Panel of Counsel. The present report focuses on the management review of the appeals process and includes proposals for strengthening the administration of justice, as well as providing information requested by the Assembly.

* The present report is being submitted at this time as its preparation needed to be based, pursuant to the express request of the General Assembly, on the findings of the management review of the appeals process conducted by the Office of Internal Oversight Services, which was finalized in late September 2004.

04-56589 (E) 051104

I. Introduction

1. In its resolution 57/307 of 15 April 2003, the General Assembly considered certain aspects of the internal system of justice in the United Nations, welcomed the initiative of the Secretary-General in requesting the Office of Internal Oversight Services (OIOS) to conduct a management review of the appeals process and requested the Secretary-General to report thereon, as well as on certain other aspects of the internal system of justice, to the Assembly at its fifty-eighth session. The Assembly also concurred with the observations and recommendations contained in paragraphs 6 and 7 of the report of the Advisory Committee on Administrative and Budgetary Questions (A/57/736), in which the Advisory Committee had requested that the management review address a number of specific items for the purpose of expediting the handling of appeals. In paragraphs 10 and 11 of its resolution 57/307, the Assembly further requested OIOS to include in its management review additional issues, namely, measures to shorten the period required for the disposal of cases, the procedures and functions related to the Joint Appeals Board, the Panel of Counsel, the Administrative Law Unit and the secretariats of the Joint Appeals Boards and the Joint Disciplinary Committees and their impact on and contribution to the administration of justice.

2. In accordance with the request of the General Assembly, the present report takes into account the findings of the management review of the appeals process conducted by OIOS, which was carried out from March to July 2004. The report of OIOS was finalized at the end of September (A/59/408).

II. Management review of the appeals process by the Office of Internal Oversight Services

3. In its report on the management review of the appeals process, OIOS made a total of 18 recommendations for making the process more effective through the provision of additional resources and the strict use of time limits, as well through improved training, communication and case management. The Secretary-General was appreciative of the value of the OIOS report, and agreed with its findings and the great majority of its recommendations, as discussed below.

A. Time taken to complete the appeals process and the resources allocated to it

4. OIOS looked at the functional responsibilities of all the organizational entities involved in the appeals and disciplinary processes and their respective time lines for dealing with cases. Focusing its review only on the appeals process (not the disciplinary process or the final adjudication stage of employment disputes by the Administrative Tribunal), OIOS found that it could be streamlined to make it shorter and made specific recommendations for time lines at all stages of the process. In addition, OIOS concluded that the delays that plagued the appeals process in the Secretariat were due to insufficient resources. The OIOS accordingly made specific recommendations for additional resources to be allocated to each of the organizational units involved in the appeals process (i.e., the Administrative Law Unit, the secretariats of the New York, Geneva, Vienna, and Nairobi Joint Appeals

Boards, the Office of the Under-Secretary-General for Management and the Panel of Counsel), as detailed in its report.

B. Need for training and communication

5. OIOS noted that a system dependent on volunteers required frequent and comprehensive training opportunities. While some training has been provided in New York, no training on the administration of justice has been offered in recent years at other headquarters duty stations or for field staff worldwide. OIOS recommended yearly two-day training courses for all staff involved in the judiciary process at each of the headquarters duty stations. As a means of improving communication, reviewing results achieved and addressing questions on policy and operational support, the report also recommended that the Under-Secretary-General for Management hold annual meetings with members of the Joint Appeals Boards/Joint Disciplinary Committees, officials acting for the respondent and the Panel of Counsel. Finally, OIOS recommended that the secretariats of the Joint Appeals Boards adopt a standardized electronic tracking system, which would provide information on expected deadlines and monitoring of trends and would be accessible to the parties.

6. The Secretary-General notes that great emphasis has been placed on the early resolution of grievances through dialogue, positive communication, exchange of information and reconciliation of differences. Moreover, mediation and informal resolution of grievances has been further enhanced since October 2002, when the Office of the Ombudsman started operating. In the area of training, new training programmes tailored to improving communication skills and emphasizing client service have been designed and are being offered in-house. Those programmes include components related to dispute-resolution techniques and are provided on a continuing basis. In addition, the Under-Secretary-General for Management meets regularly with members of the Joint Appeals Boards/Joint Disciplinary Committees.

7. Nevertheless, the Secretary-General recognizes that more can be done in the area of training, notably in the context of the appeals process, which is dependent on volunteers. In that regard, he supports the OIOS recommendations concerning the need for increased training and notes that training would need to be given in mediation and conciliation, report writing, law and policy on discrimination and harassment, the United Nations staff Regulations and Rules and the standards of conduct for the international civil service. Such training would need to be updated regularly to ensure maximum effectiveness. However, additional resources would need to be allocated for that purpose.

C. Other issues

1. Considering appeals out of order

8. OIOS noted that protracted delays in the appeals process were particularly serious for staff whose cases involved the non-renewal of contracts, given the financial implications of unemployment. OIOS proposed that the presiding officer of the Joint Appeals Board consider the concept of "leapfrogging" such appeals, or putting them at the front of the queue.

9. While the Secretary-General shares the concern over such cases, he does not support the proposal to leapfrog them, for two reasons. First, a substantial number of appeals involve the non-renewal of contracts, and putting them ahead of other cases would be unfair to the other appellants. Second, leapfrogging carries the danger of subjectivity on the part of the official determining which cases are more urgent. The solution would be to eliminate the backlog, as suggested by OIOS, and to hear all appeals promptly within the time limits foreseen by the Staff Rules. The proposed leapfrogging of a whole group of appeals, such as those concerning the non-renewal of appointments, would only shift the problem of delays to other appeals. That said, it should be noted that under the current rules of procedure of the Joint Appeals Board, particular individual appeals may be heard out of order on an exceptional basis.

2. Direct access to the United Nations Administrative Tribunal

10. OIOS noted that at present, staff members had no access to the United Nations Administrative Tribunal until the Secretary-General had considered the report of the Joint Appeals Board, which was dependent on the respondent submitting a reply to the Joint Appeals Board. OIOS proposed that after one year, during which time the impact of extra resources on the appeals process could be assessed, consideration could be given to amending the Staff Rules to enable an appellant to have direct access to the Tribunal should the Administration fail to respond within the prescribed time limits.

11. The Secretary-General does not support this proposal on the following grounds. First, the Joint Appeals Board is a fact-finding body and the Tribunal, which is not a de novo body, relies on the facts established by the Joint Appeals Board. If the Board has not established the facts of a particular case on the basis of an account given by both parties, the Tribunal would likely remand such "direct-access" cases to the Board for consideration on the merits, thereby adding to the delays. Therefore, the implementation of this proposal would not speed up the process, but rather would delay it further. Moreover, as OIOS itself acknowledges, the failure of the respondent to submit a reply within a certain period of time is largely a question of lack of resources, and it is this factor which needs to be addressed. In addition, the Secretary-General notes that the provision of direct access to the Administrative Tribunal would require the amendment by the General Assembly of article 7 of the Tribunal's statute.

3. Conflict of interest in the Department of Management

12. OIOS noted that nearly all component entities in the judicial process in New York were under the authority of the Department of Management, that is, the secretariat of the New York Joint Appeals Board, the secretariat of the Panel of Counsel, the Administrative Law Unit and the Office of the Under-Secretary-General for Management. In its report, OIOS stated that the concentration of responsibilities in the Department could be too readily perceived as a conflict-of-interest situation, thereby diminishing the objectivity of the appeals process. It recommended that the situation be reviewed with a view to adopting measures to address the appearance of conflict of interest. One suggested measure was to transfer to the Office of the Secretary-General or other Secretariat units the responsibility for formulating decisions on appeals.

13. Indeed, as OIOS acknowledges, this is an issue of perception rather than reality. Moreover, in view of the organizational structure of the United Nations system, it is unlikely that this perception could ever be totally eliminated, since all staff are ultimately accountable to the Secretary-General. Nevertheless, the Secretariat has taken measures to address the perception of conflict of interest. This issue was addressed in the late 1980s, when the responsibility for preparing decisions on the reports of the Joint Appeals Board was removed from the Office of Human Resources Management and assumed by the Office of the Under-Secretary-General for Management. This was done precisely because the Office of Human Resources Management was responsible for the preparation of respondents' replies to the Joint Appeals Board. In addition, the current working procedures of the Administrative Law Unit mitigate against any possibility of a conflict of interest, as its work is submitted directly to the Joint Appeals Board without it being seen by or discussed with the Office of the Under-Secretary-General for Management. Similarly, all Joint Appeals Boards and the Panel of Counsel, although administratively co-located in the Department of Management, enjoy total functional independence from each other and operate without any involvement from the Department.

14. Concerning the OIOS recommendation to transfer responsibility for preparing decisions on appeals outside the Department of Management, the Secretary-General notes that, aside from the Office of the Secretary-General, the only possible other Secretariat unit to which the function could be transferred would be the Office of Legal Affairs. The Secretary-General is not in agreement with such a transfer, since it would create the appearance of an even greater conflict of interest than the one OIOS is attempting to redress. This is because the Office of Legal Affairs acts as respondent in defending the Secretary-General's decisions on appeals before the Administrative Tribunal and could not, therefore, at the same time be the office responsible for preparing those decisions. It is further noted that there is no easy solution to the perception of a conflict of interest. Ultimately, all elements of the internal justice system other than the Administrative Tribunal are under the authority of the Secretary-General. This does not mean that there cannot be effective checks and balances in the way the system is set up. For lack of an alternative that clearly eliminates any possibility of a perception of a conflict of interest rather than shifting the problem elsewhere, it is recommended that the status quo be maintained.

III. Alternatives for strengthening the administration of justice

15. In paragraph 9 of its resolution 57/307, the General Assembly requested the Secretary-General, taking due account of the findings of OIOS, to submit a report containing alternatives for strengthening the administration of justice for consideration at its fifty-eighth session.

A. Addressing the delays in the appeals process

16. The mandate given to OIOS by the General Assembly was to focus its review on measures to shorten the period required for the disposal of cases, including imposing deadlines at all stages of the process. In that regard, the OIOS report includes specific recommendations for: (a) enforcing deadlines that are currently not met; (b) establishing deadlines for stages of the process where none existed before;

and (c) providing additional posts and/or temporary assistance funding to address and eliminate the current backlog at different stages of the process.

17. The deadlines recommended by OIOS would, if implemented, indeed assist in alleviating the delays, thereby effectively addressing the perennial complaint that the internal system of justice in general and the disposition of appeals in particular are slow and cumbersome. The Secretary-General fully endorses this objective, which, if achieved, would go a long way towards strengthening the internal system of justice in the Secretariat. At the same time, the notion of a speedier process is inextricably linked to the issue of adequacy of resources. Indeed, the imposition of deadlines in order to speed up the process, unless accompanied, at a minimum, by additional staffing resources, would not achieve the elimination of the current backlog or prevent the formation of a new one. Thus, while the Secretary-General agrees with the time lines proposed by OIOS, they should become mandatory only after the staffing shortages are addressed through the provision of additional resources and the backlog of cases is eliminated in the organizational units concerned. Otherwise, the Organization would be exposed to the risk of having the Administrative Tribunal award compensation to appellants for delays and not meeting the time limits.

18. The elimination of the backlog and the subsequent introduction and enforcement of the time lines for particular stages of the process, as recommended by OIOS, would result in a streamlined, transparent and more efficient process, which would, at the same time, uphold the Organization's commitment to a process that is fair and effective.

B. Training and communications in the context of the internal system of justice

19. Recently, the Secretariat has made the following particular improvements in the area of sharing with staff information on the internal system of justice.

20. Annual reports are issued providing information on the work of all Joint Appeals Boards worldwide and the disposition of appeals. The first such reporting was incorporated in the report of the Secretary-General contained in document A/56/800, which provided information on the work of all Joint Appeals Boards for the years 2000 and 2001, as well as information on the Secretary-General's decisions on the reports of the Joint Appeals Boards. Subsequent reports (A/58/300 and A/59/70) were issued for the years 2002 and 2003 respectively.

21. In addition, information circulars have been issued regarding the Secretary-General's practice in disciplinary matters (ST/IC/2002/25 and ST/IC/2004/28).

22. Another information circular was issued in 2004 providing updated information to all staff on the means available to them to address and resolve conflict situations that may arise in the workplace (ST/IC/2004/4).

23. Furthermore, the Department of Management has created and is maintaining an electronic Digest of Cases and Jurisprudence of the United Nations Administrative Tribunal, which includes case briefs and excerpts from the Tribunal's jurisprudence. This Digest offers all staff the opportunity and the means to develop a comprehensive understanding of their rights and duties, as interpreted by the Administrative Tribunal.

24. In paragraph 27 of its resolution 57/307, the General Assembly requested the Secretary-General to continue to ensure that all decisions affecting the status of staff are communicated to the staff members concerned. This indeed continues to be the case.

C. Cooperation and accountability of managers

25. In paragraph 4 of its resolution 57/307, the General Assembly requested the Secretary-General to ensure that a department or programme manager whose decision is challenged by an appellant cooperates fully with and is accountable to the internal system of justice at all stages of the process.

26. The Secretary-General notes that there have already been significant improvements in this area. Requests for administrative review are sent to the relevant decision makers for comments, giving the time frame in which their comments must be received so that a meaningful review of the request can be conducted in the light of the comments. Managers are advised that the review stage presents an opportunity to settle the matter, if appropriate. They are also advised at that stage that, should the staff member follow up the request for an administrative review with an appeal to the Joint Appeals Board, he or she might be called to a hearing or be otherwise contacted by the Joint Appeals Board. Managers are also accountable in that their written explanations to the Administrative Law Unit become an integral part of the respondent's reply should the matter proceed to appeal. The Joint Appeals Board panel considering the case may call upon the responsible manager to explain his or her decision further in person should the panel not be satisfied with the written submission.

27. With the gradual introduction of the measures described above over the past several years, the cooperation of managers in the appeals process has improved. Finally, it is noted that the elimination of the backlog of appeals cases will come with increased accountability, since managers will be asked to explain their decisions very soon after making them, rather than many months or years later, when it may not even be the decision maker but his or her successor who will have to answer.

28. In addition, the Secretary-General is in agreement with the OIOS recommendations that: (a) staff members wishing to appeal an administrative decision should send a copy of their request for review to the executive head of their department, thereby facilitating the earliest possible resolution of the matter; and (b) the Administrative Law Unit clarify with managers the requirements for the respondent's reply and the contributions, including time limits, expected from the managers.

D. Other suggestions for strengthening the appeals process

1. Increasing staff participation in the Joint Appeals Board ("jury duty")

29. The Organization's recourse system, which depends on volunteers, often faces significant difficulties in identifying a sufficient pool of staff to serve on the Joint Appeals Board and the Joint Disciplinary Committee, given that volunteer staff members also serve on other specialized advisory bodies in the Secretariat. Those difficulties have contributed to the delays in the consideration of cases.

30. In order to address the delays resulting from those difficulties, a further option for strengthening the appeals process could be to reduce the system's reliance on

volunteers and to move to a "jury" system for the Joint Appeals Board and Joint Disciplinary Committee. This would entail the selection of staff to serve on the panels on a compulsory rotational basis, thereby significantly increasing the size of the pool from which members of the Joint Appeals Board and Joint Disciplinary Committee are drawn. It would also enhance the representativeness or "peer" characteristic of the panels, since they would be made up of members of various levels of seniority, management as well as staff, Professional as well as General Service. Such a system would facilitate recognition within the system that serving on a panel was part of a staff member's official functions, thereby reducing the difficulty presently experienced by some volunteers in being released from their regular functions to participate in the activities of the Joint Appeals Board.

31. The Secretary-General believes that this option has considerable merit. He would also draw to the Assembly's attention the following considerations. Increasing the size of the pool of "jurors" would mean that significantly greater resources would need to be devoted to training, since each time the pool rotated, the new panel members would need to be trained in the Staff Regulations and Rules, the jurisprudence of the United Nations Administrative Tribunal, mediation and conciliation and so on. In addition, careful thought would need to be given to the handling of exemptions from such duty. Exemptions could include staff members who have a real or perceived conflict of interest in a particular case and staff members whose official functions, by their nature or because of the exigencies of service (e.g., requirement to travel on mission frequently), preclude their participation in the panels or who already serve on other panels in addition to their regular functions.

2. Strengthening conciliation by the Joint Appeals Board

32. Pursuant to staff rule 111.2 (b), conciliation may be sought prior to the consideration of an appeal by the Joint Appeals Board. As noted in the OIOS report, conciliation and the settlement of cases are very labour-intensive activities and success can be elusive. However, there is little doubt that every effort should be made to avoid further litigation in cases that are conducive to settlement. To that end, the conciliation functions of the Joint Appeals Board could be strengthened through, among other things, the provision of training in the areas of mediation and negotiation.

E. Concluding remarks on strengthening the appeals process

33. The improvements proposed above, which take into account the findings and recommendations of OIOS, should, if implemented, improve the internal system of justice in general and the appeals process in particular. As OIOS has demonstrated in its report, the delays and backlogs in the process are for the most part the result of inadequate resources. The additional resources recommended by OIOS, along with the subsequent enforcement of the time lines, would substantially improve the system.

34. The provision of a full-time presiding officer at the New York Joint Appeals Board and the recommended increase in targeted training to be offered to all participants in the process would improve the quality of the advice given by the panels to the Secretary-General. This in turn would result in the Secretary-General's increasing acceptance of such advice, which would address another recurrent concern of the Joint Appeals Board members and staff representatives, namely, that their unanimous recommendations are sometimes not accepted by the Secretary-General.

35. In conclusion, the internal recourse system does not require a radical overhaul to make it more effective. The chronic delays and inefficiencies that have been its trademark in past years are largely the result of inadequate resources, in terms of both staffing and training, and this situation has been exacerbated by a significant increase in the number of cases, as confirmed by OIOS in its management review.

IV. Other action taken pursuant to the resolution

A. Independence of the United Nations Administrative Tribunal

36. In paragraph 5 of its resolution 57/307, the Assembly requested the Secretary-General to take steps to ensure the independence of the United Nations Administrative Tribunal and the separation of its secretariat from the Office of Legal Affairs, to study the possibility of its financial independence and to report thereon to the Assembly at its fifty-eighth session. In conformity with that request, the Secretary-General submitted a report entitled "Possibility of the financial independence of the United Nations Administrative Tribunal from the Office of Legal Affairs" (A/59/78).

B. Proposals on the role and work of the Panels on Discrimination and Other Grievances

37. With regard to the request of the General Assembly contained in paragraph 20 of its resolution 57/307 that the Secretary-General, in consultation with the Ombudsman and staff representatives, submit detailed proposals on the role and work of the Panel on Discrimination and Other Grievances, a separate report (A/59/414) has been submitted by the Secretary-General.

C. Activities of the United Nations Administrative Tribunal

38. In response to the request contained in paragraph 23 of the resolution, the United Nations Administrative Tribunal submitted a comprehensive report on its activities to the General Assembly (A/58/680).

D. Written notification of allegations to staff members

39. In paragraph 28 of the resolution, the General Assembly decided to amend staff rule 110.4 (a) to the effect that the notification of allegations against staff members should be done in writing. This amendment, which reflects actual practice, was promulgated in Secretary-General's bulletin ST/SGB/2003/8 and was subsequently included in the annual Secretary-General's bulletin consolidating amendments to the Staff Rules (ST/SGB/2004/1).

E. Personal financial responsibility of officials for financial losses to the Organization caused by gross negligence

40. In paragraphs 24 to 26 of the resolution, the General Assembly requested the Secretary-General: (a) to establish a clear linkage between the administration of

justice and responsibility and accountability in the United Nations Secretariat when decisions of the Administrative Tribunal result in losses to the Organization due to management irregularities; (b) to develop as a matter of priority an effective system of personal accountability to recover financial losses to the Organization caused by management irregularities; and (c) to finalize and issue an administrative instruction on the implementation of section XI, paragraph 9, of its resolution 55/258 of 14 June 2001.

41. In his report entitled "Management irregularities causing financial losses to the Organization" (A/53/849), the Secretary-General indicated the need to establish procedures that would determine whether there was "gross negligence" in a specific instance and what financial responsibility, if any, should be incurred by those who have committed gross negligence. In his follow-up report on management irregularities (A/54/793), the Secretary-General outlined the procedures that were being developed at that time by the Administration to that end, bearing in mind the need to ensure that the due process rights of staff members would be protected. Those procedures included changes in the composition and mandate of the Joint Disciplinary Committee to enable it to consider cases of staff members charged with gross negligence and make recommendations regarding their personal financial responsibility. The new procedures necessitated corresponding changes to the Staff Rules pertaining to the functions and composition of the Joint Disciplinary Committee. In addition, the revised Staff Rules and implementing administrative instruction needed to be circulated to staff representatives for comment before being put into effect. The necessary amendments to the Staff Rules have been promulgated by Secretary-General's bulletin ST/SGB/2004/14, and the new procedures were issued under administrative instruction ST/AI/2004/3, both with an effective date of 1 October 2004.

V. Other information requested by the General Assembly

A. Legal insurance schemes

42. In paragraph 16 of its resolution 57/307, the General Assembly requested the Secretary-General to undertake a more in-depth analysis of the implications of ensuring that the executive heads of organizations collaborate with the staff associations in the development of comprehensive legal insurance schemes to cover legal advice and representation for staff, with a view to ensuring equality of all staff in adversarial procedures and the widest possible access of staff to the administration of justice.

43. The request appears to envisage that such legal insurance schemes would cover not only the staff members of the Secretariat, but also the staff of other organizations, thus necessitating the coordination of consultations between the executive heads of such organizations and insurance providers for the provision of such insurance worldwide.

44. In response to the Assembly's request, consultations were initiated with the Secretariat's major insurance provider. The preliminary information that has been obtained concerning group legal insurance schemes in the United States of America indicates that federal law may not permit group legal plans that include United

States residents to cover employment-related matters or other matters adverse to the employer.[1]

45. It should be noted that one of the United Nations insurance providers (Aetna) has a legal reference programme that is automatically available to all United Nations staff members and retirees who are enrolled in the Aetna group life insurance plan and who are residing in the United States. This programme gives plan members and their families access to basic legal services at reduced rates: in other words, a large panel of professionally managed attorneys have agreed to charge discounted or flat-rate fees for certain services. Plan members can purchase only the services they need when they need them. However, the reference programme is not available for employment-related questions. Other insurance companies in the United States that provide legal insurance and/or prepaid legal plans were also consulted: every one of those companies excludes coverage for employer-employee disputes as a matter of policy.

46. Thus, as a potential solution to the problem of staff needing legal advice and representation for disputes relating to their employment with the United Nations, the preliminary indication is that legal insurance schemes or legal reference services may not be the answer, at least with regard to New York Headquarters staff, given that they apparently specifically exclude coverage for employment-related grievances. Accordingly, even if such group legal insurance schemes were at all possible in other areas of the world, the exclusion of staff members who are United States residents from coverage would create undesirable disparities among staff. Consultations are continuing with insurance providers on this matter.

B. Statistics on the disposition of cases and work of the Panel of Counsel

47. In paragraph 21 of its resolution 57/307, the General Assembly requested the Secretary-General to include statistics on the disposition of cases and information on the work of the Panel of Counsel in his annual report on the administration of justice in the Secretariat. To date, the annual reports of the Secretary-General on justice have mainly focused on the disposition of cases by and the outcome of the work of the Joint Appeals Boards. From now on, those reports will also include statistics and information on the work of the Panel of Counsel. The text and accompanying figures below present statistics and information on the work of the Panel of Counsel for 2003.

48. At present, staff members appealing administrative decisions or staff against whom disciplinary proceedings have been initiated may be assisted by volunteers from the Panel of Counsel. Any active or retired staff member can be a member of the Panel of Counsel, irrespective of educational background, legal training or administrative experience. Many volunteers do not have hands-on knowledge of United Nations policies, procedures or precedents. Accordingly, concerns have been raised about the inequality of staff representation compared to the professional lawyers who represent the Secretary-General in such proceedings.

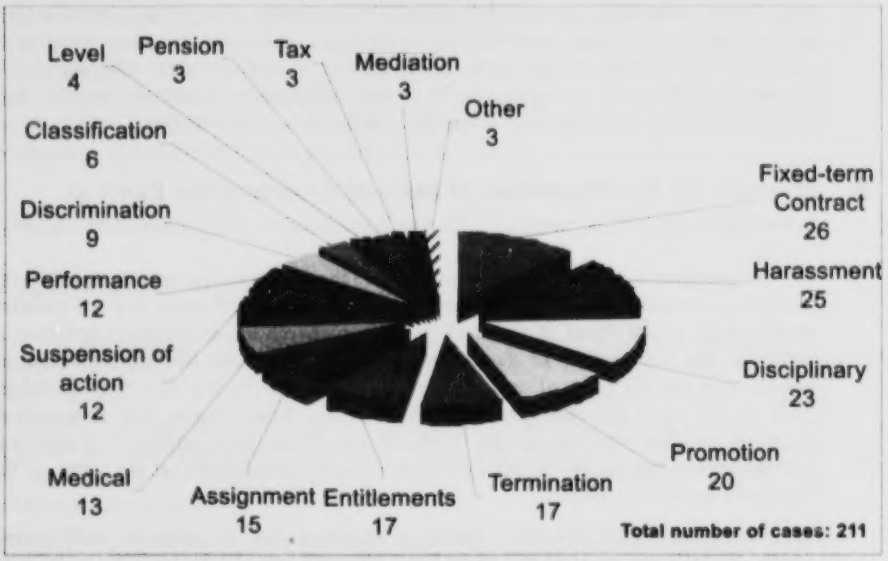
49. For that reason, in 2000 the Secretary-General proposed to make available to the Panel of Counsel a legal officer post at the P-4 level the incumbent of which

[1] United States Code, title 29, sect. 186.

would advise staff on their cases and provide guidance to the members of the Panel of Counsel. By paragraph 79 of its resolution 56/253 of 24 December 2001, the General Assembly approved the establishment of a new P-4 post but decided to allocate it to the newly established Office of the Ombudsman. In his earlier report on the administration of justice (A/56/800, para. 30), the Secretary-General indicated that it was indeed necessary to provide adequate support to the Ombudsman, but that the necessity to provide legal backstopping to the Panel of Counsel had not diminished. This was also the conclusion of OIOS, which recommended the establishment of a Professional post to strengthen the Panel of Counsel in New York, the incumbent of which would also provide support to the Panels of Counsel in other headquarters duty stations.

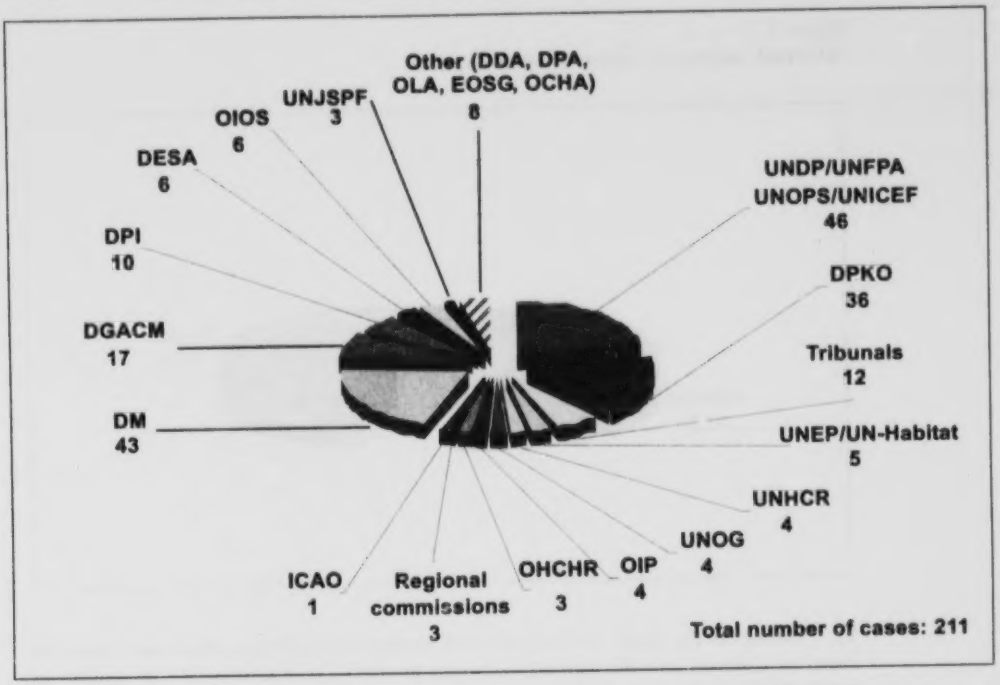
50. During 2003, current or former staff members requested the assistance of the Panel of Counsel in 211 new cases. As is depicted in figure 1, most of those cases concerned the non-renewal of fixed-term contracts, disciplinary matters and harassment, the latter two types of cases being highly labour-intensive.

Figure 1
Subject matters and number of cases dealt with by the Panel of Counsel, 2003



51. As can be seen from figure 2, many of the requests for assistance addressed to the New York Panel of Counsel in 2003 arose from staff members located in field-oriented departments and agencies, especially the Department of Peacekeeping Operations, the United Nations Development Programme, the United Nations Population Fund, and the United Nations Office for Project Services.

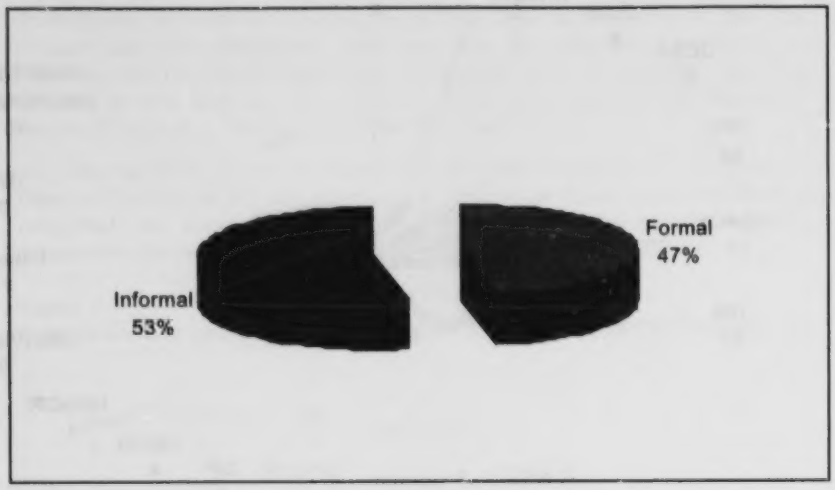
Figure 2
Departments/agencies where most cases originated, 2003



Abbreviations: DDA, Department for Disarmament Affairs; DESA, Department of Economic and Social Affairs; DGACM, Department for General Assembly and Conference Management; DM, Department of Management; DPA, Department of Political Affairs; DPI, Department of Public Information; DPKO, Department of Peacekeeping Operations; EOSG, Executive Office of the Secretary-General; ICAO, International Civil Aviation Organization; OCHA, Office for the Coordination of Humanitarian Affairs; OHCHR, Office of the United Nations High Commissioner for Human Rights; OIOS, Office of Internal Oversight Services; OIP, Office of the Iraq Programme; OLA, Office of Legal Affairs; UNDP, United Nations Development Programme; UNEP, United Nations Environment Programme; UNFPA, United Nations Population Fund; UN-Habitat, United Nations Human Settlements Programme; UNHCR, Office of the United Nations High Commissioner for Refugees; UNICEF, United Nations Children's Fund; UNJSPF, United Nations Joint Staff Pension Fund; UNOG, United Nations Office at Geneva; UNOPS, United Nations Office for Project Services.

52. As can be seen in figure 3, of the 211 new cases in 2003, 99 (or 47 per cent) went through the formal appeals processes and 112 (or 53 per cent) were dealt with informally.

Figure 3
Informal resolution versus formal appeals



53. Owing to the sheer volume of staff members requesting assistance from the Panel of Counsel and the limited resources available to it at present, the quality of representation and advice offered to staff necessarily suffers, and this is particularly true for staff in field locations. In addition, opportunities for conciliation and settlement may not be pursued to the fullest extent owing to the severe time and resource limitations. It is expected that if the General Assembly decides to accept the recommendation of OIOS to provide a Professional post for the Panel of Counsel, this will result in a higher proportion of cases being settled informally.

United Nations A/59/450

General Assembly

Distr.: General
21 October 2004

Original: English

Fifty-ninth session
Agenda items 12, 22, 36, 37, 38, 43, 45, 48, 83, 84, 85, 87, 93, 103, 107 and 108

Report of the Economic and Social Council

Assistance in mine action

The situation in the Middle East

Question of Palestine

New Partnership for Africa's Development: progress in implementation and international support

Follow-up to the outcome of the twenty-sixth special session: implementation of the Declaration of Commitment on HIV/AIDS

Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

Elimination of unilateral extraterritorial coercive economic measures as a means of political and economic compulsion

Macroeconomic policy questions

Follow-up to and implementation of the outcome of the International Conference on Financing for Development

Sustainable development

Globalization and interdependence

Implementation of the outcome of the World Summit for Social Development and of the twenty-fourth special session of the General Assembly

Elimination of racism and racial discrimination

Review of the efficiency of the administrative and financial functioning of the United Nations

Programme budget for the biennium 2004-2005

04-56762 (E) 031104

Letter dated 15 October 2004 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the Ministerial Declaration adopted on the occasion of the twenty-eighth meeting of the Ministers for Foreign Affairs of the Group of 77, held at United Nations Headquarters in New York on 30 September 2004.

On behalf of the Group of 77, I would highly appreciate it if you could arrange for the present letter and its annex to be circulated as an official document of the fifty-ninth session of the General Assembly under agenda items 12, 22, 36, 37, 38, 43, 45, 48, 83, 84, 85, 87, 93, 103, 107 and 108.

(*Signed*) Nassir Abdulaziz **Al-Nasser**
Permanent Representative of the State of Qatar to the United Nations
Chairman of the Group of 77

Annex to the letter dated 15 October 2004 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General

Ministerial Declaration

We, the Ministers of Foreign Affairs of the Group of 77 and China convened on the occasion of the Twenty-eighth Annual Meeting at United Nations Headquarters in New York on 30 September 2004, reaffirmed the Ministerial Declaration on the occasion of the fortieth anniversary of the Group of 77 at São Paulo, Brazil, on 11-12 June 2004, reviewed the developments in the international economic situation and the activities undertaken in the context of the development agenda of the United Nations, and adopted the following Declaration:

1. We welcome the adoption of General Assembly resolution 58/291 of 6 May 2004 on the integrated and coordinated implementation of and follow-up to the outcomes of the major UN conferences and summits in the economic and social fields, which decided to convene in New York in 2005, a High-level plenary meeting to undertake a comprehensive review of the progress made in the fulfillment of all the commitments contained in the Millennium Declaration, including the internationally agreed development goals and the global partnership required for their achievement. We emphasize that the Event should focus on development and that the preparatory process for the 2005 event should be inclusive, open-ended and transparent and the outcome of the event to be a composite document, intergovernmentally negotiated through such a process.

Globalization

2. Globalization presents opportunities, challenges and risks for developing countries. We note with deep concern that the processes of globalization and liberalization have produced uneven benefits among and within countries, and that the world economy has been characterized by slow and lopsided growth and instability. The income gap between developed and developing countries has widened, and poverty has increased in many developing countries. We therefore believe that there is a need for a global strategy to prioritize the development dimension into global processes in order for developing countries to benefit from the opportunities offered by globalization. An enabling external economic environment for development requires greater coherence between the international trading, monetary and financial systems.

3. We emphasize the need for the international trading system to allow for legitimate policy space necessary for developing countries to pursue a pro-active, strategic mix of trade and development policies suited to their initial conditions, dynamic comparative advantage and changing needs and circumstances. It is particularly important to take into account the need for an appropriate balance between national policy space and international disciplines and commitments in the area of finance, development and trade when deciding collectively on future disciplines and commitments and on the implementation and interpretation of existing ones.

4. We call upon developed countries to conduct their macroeconomic and trade policies in a way that enhances the opportunities of developing countries to reduce the existing income gap and to meet the Millennium Development Goals (MDGs) and other development goals. Effective macroeconomic policy coordination among the major industrial countries and mechanisms that contribute to greater stability of exchange rates among the major currencies and financial flows to developing countries would be helpful in this regard.

5. We welcome the report of the World Commission on Social Dimension of Globalization and urge the General Assembly and other organs and bodies of the UN sytem to give full consideration to the proposals and recommendations contained therein with a view to contributing to make globalization inclusive and equitable for all world's people.

International trade

6. We reaffirm the objectives contained in the Millennium Declaration of upholding and safeguarding of an open, universal, equitable, rule-based, predictable and non-discriminatory multilateral trading system in promoting development and poverty eradication. In this regard, we stress, inter alia:

- The importance of increased and effective market access and entry conditions in developed countries for agriculture, manufactures and services exports of developing countries, as a pre-requisite for assuring development gains from the international trading system and negotiations.

- Special and differential treatment should form an integral part of all aspects of negotiations. All existing provisions under the WTO Agreements on special and differential treatment should be expeditiously reviewed with a view to strengthening them and making them more precise, effective and operational. Likewise all outstanding implementation-related issues and concerns raised by developing countries should also be addressed as a priority with commercially meaningful outcomes.

7. We note with satisfaction that WTO Members agreed at the General Council on 1 August 2004 to a framework for further negotiations under the Doha Work Programme. The successful final outcome of the Doha Work Programme would depend on the manner in which negotiations take into account the interest and concerns of developing countries and in a process that is transparent and inclusive.

8. We welcome the outcome of the UNCTAD XI Ministerial Meeting held in São Paulo, Brazil, from 13 to 18 June 2004 which, inter alia, draws specific attention to the shrinking policy space available to developing countries to pursue development objectives and elaborates policy responses required to ensure that globalization is responsive to and serves the development needs of the developing countries, reaffirms the role of UNCTAD as the focal point in the UN system for trade and development-related issues and calls for strengthening of the UNCTAD mandate to enable it to provide policy analysis and serve as a forum for consensus-building in other areas, including the area of corporate responsibility and new and dynamic sectors such as ICT and creative industries. We emphasize the importance of the agreements reached at UNCTAD XI to provide a positive impetus to the ongoing WTO negotiations in pursuance of the Doha Work Programme.

9. We note with great concern that a large number of developing countries, particularly LDCs and commodity-dependent countries, continue to remain marginalized in international trade and the trading system and are still vulnerable to external shocks. The commodity sector continues to be the mainstay of the economy of many developing countries in terms of the generation of income, savings and foreign exchange, as well as employment and livelihood, particularly for the poor and women. Special attention thus needs to be paid to the sector both by developing countries and by the international community, including through the provision of development assistance, the reform of the multilateral trading system, securing competitive conditions in commodity markets, and addressing price instability and declining terms of trade through both governmental action and market based instruments. We stress in particular the need for enhanced, equitable and predictable market access for commodities of key importance to developing countries, addressing the problems of oversupply, setting up operational compensatory financing schemes, and the creation of a new International Diversification Fund.

10. We emphasize, the importance of the strengthening and attainment of the universality of the World Trade Organization and, in this context, call for accelerating the accession process without political impediments and in an expeditious and transparent manner for developing countries applying to the World Trade Organization, and also the provision of technical assistance by the World Trade Organization and the United Nations Conference on Trade and Development, within their mandates, thereby contributing to the rapid and full integration of those countries into multilateral trading system.

Financing for development

11. We urge developed countries to assist developing countries in their efforts to attain the Millennium Development Goals as well as other development goals by providing adequate technical and financial assistance, in line with the internationally agreed targets for official development assistance of 0.7 per cent of GNP to developing countries and 0.15 per cent to 0.2 per cent of GNP to least developed countries. This needs to be linked to efforts to improve the quality and effectiveness of aid, through better coordination, closer integration with national development strategies, greater predictability and stability, and genuine national ownership.

12. We deeply regret that despite some initiatives undertaken over the past years, the external debt burden persists as one of the main constraints for the development of developing countries, including middle-income countries. We firmly reiterate the urgent need for the international community to adopt an effective, comprehensive, equitable, durable, and development-oriented solution to the debt problems of developing countries, particularly through total debt cancellation and increased concessional financial flows, as well as through debt for sustainable development swaps.

13. We note with concern the unsatisfactory nature of the existing institutional arrangements for dealing with international tax matters, institutional arrangements that do not adequately address the concerns or represent the interests of developing States. We reiterate the urgent need for an inclusive, participatory and representative UN intergovernmental framework for international cooperation in tax matters.

14. We confirm the need to establish new innovative financial mechanisms to support the efforts of developing countries to achieve sustained economic growth, poverty eradication, sustainable development and strengthening their democratic systems, by raising new resources for productive investment and creating employment in order to provide answers to our people's legitimate needs while reaffirming the leading roles of national governments in the development process of each country.

15. We recognize the imperative need of mobilizing the international community and of generating additional resources for development so as to contribute towards the achievement of the Millennium Development Goals as well as other development goals. In particular, we endorse efforts underway concerning the identification of new and alternative sources of funding, to be channeled to developing countries in a stable, transparent and predictable manner, with a view to the eradicating poverty and hunger and promoting development with equity. In this regard, we welcome the declaration arising from the world leaders meeting on "Action on Hunger and Poverty", convened by the President of Brazil, Luiz Inácio Lula da Silva, which was held in New York on September 20th 2004, and look forward to follow up actions that will have concrete effects over those important issues.

Sustainable development

16. We reaffirm our commitment to the full implementation of Agenda 21 and the JPOI adopted at the World Summit on Sustainable Development. We underscore that the fulfillment of the goals set in the JPOI will require increased provision of means of implementation and a strengthened North-South cooperation based on the principle of common but differentiated responsibilities. We therefore urge the international community to fulfill its commitment to the full and expeditious provision of the means of implementation. We emphasize the importance for the CSD13 and its preparatory meeting, to discuss policy options and possible actions to address the constraints and obstacles in the process of implementation identified during the review year, in particular the provision of means of implementation, with the view to take policy decisions on practical measures and options to expedite implementation of the provisions of the JPOI in the thematic cluster of water, sanitation and human settlement.

17. We note that the meetings of UNFF identified the lack of the provision of means of implementation notably; inadequate technical, technological and financial resources as a major constraint for developing countries to promote sustainable forest management (SFM) and to implement IPF/IFF proposals for action. In this regard, UNFF5 will provide a unique opportunity for the international community to address this issue in an effective manner.

18. We note with concern the unavailability of funds for financing the projects under the operational program 15 of the GEF and in this regard the provision of adequate financial resources by the international community, in particular in the GEF-3 as well as in its next replenishment, is of utmost necessity.

19. We welcome the decision of the 8th Special session of the GC/GMEF of UNEP to launch the process of preparation of the strategic plan on technology support and capacity building. We emphasize that this plan is to be effective and action-oriented with clear time-tables and targets and sufficient resources for its implementation. This plan should be country-driven and address the priority needs of countries in the environmental field, based on the mandate of UNEP and in close cooperation with the relevant UN agencies and programmes and GEF.

20. We reaffirm our support for UN General Assembly resolutions on promoting an integrated management approach to the Caribbean Sea within the context of sustainable development.

21. We welcome the proclamation of the year 2006 as the International Year of Deserts and Desertification.

22. Having considered the importance of the United Nations Convention to Combat Desertification in attaining the Millennium Development Goals as well as its role in achieving sustainable development in developing countries, we urge the developed partners to raise their political and financial support so far extended to this Convention from a mere development aid instrument to an indispensable partnership framework whose overall objective is to contribute to the improvement of the global environment of our planet and to sustainable development of dry lands where hundreds of millions of people live.

South-South cooperation

23. We reiterate that South-South cooperation is an imperative to complement North-South cooperation in order to contribute to the achievement of the internationally agreed development goals, including the MDGs. We recognize that it is also an effective tool to maintain and strengthen solidarity and unity in order to enhance the welfare of developing countries.

24. We call for the implementation of the Havana Programme of Action and of the Marrakech Framework for the Implementation of South-South Cooperation that, taken together, represent a comprehensive framework for intensified cooperation among developing countries.

25. We welcome the decision adopted in June 2004 in Sao Paulo to launch the third round of negotiations under the Global System of Trade Preferences among Developing Countries (GSTP), based on the principle of mutuality of advantage.

26. We stress and reaffirm the central role of the South Centre as the think tank of the countries of the south, and in this regard, call on member states, donor countries, international financial institutions including the Bretton Woods Institutions and the private sector to strengthen the financial base of the Centre by providing it with financial resources.

27. We welcome the progress made by the Asian-African Sub-Regional Organizations Conference (AASROC) held in Bandung, Indonesia, in July 2003 and in Durban, South Africa, in August 2004 to establish the New Asia Africa Strategic Partnership (NAASP) as an expression of the new political will of Africa and Asia to achieve a better future. We also look forward to the convening of the Asian-African Summit to be held in Indonesia in April 2005 in conjunction with the Commemoration of the Golden Jubilee of the 1955 Asian-African Conference.

28. We express our satisfaction for the results achieved so far by the Perez-Guerrero Trust Fund (PGTF) in promoting South-South cooperation projects and we strongly encourage developing and developed countries to pledge contributions to the PGTF on the occasion of the annual UN pledging conference to be held in New York in early November 2004 in accordance with the Group's decision.

29. We recall the decision of the High-Level Conference on South-South Co-operation held in Marrakech, Morocco from December 16-19, 2003, where it was agreed to establish an open-ended intergovernmental study group to address the viability of the proposed G-77 Trade and Development Bank and in that context reiterates the decision recommending to the IFCC-XI to address this issue.

30. We approve the Financial Statement of the ECDC Account of the Group of 77 (G-77/AM(XVI)/2004/3). We express concern over the precarious financial situation of the ECDC Account and the fact that since the Havana Summit only 36 countries have paid their contributions in full. In this context, we appeal to all member States of the Group of 77 to contribute generously to the ECDC Account as decided by the South Summit in order to support the implementation of the annual programme of work of the Group of 77 and to ensure continuity of the smooth functioning of the Office of the Chairman.

31. We approve the Report of the Nineteenth Meeting of the Committee of Experts of the Perez-Guerrero Trust Fund for ECDC/TCDC (G-77/AM(XVI)/2004/2), which was presented in accordance with the guidelines for the utilization of PGTF, and also decide to extend from four to five years the term of office of the members of the Committee of Experts. We note with satisfaction the progress made so far by the PGTF in support of South-South cooperation projects and call upon all members of the Group of 77 as well as the United Nations system to support the expansion of resources of the Trust Fund. We commend the Chairman of the Committee of Experts for his continued commitment and leadership in the Fund's activities.

ICPD +10

32. We reaffirm the Programme of Action of the International Conference on population and Development. We are confident that the commemorative event to mark its 10th anniversary will provide an opportunity for consolidation of the international community's efforts for implementation of ICPD. We emphasize the need for assisting the efforts of the developing countries through provision of sufficient financial resources, technical assistance and capacity building activities for achieving the goals and targets contained in the Programme of Action.

International migration and development

33. We underscore that international migration is emerging as a very important global issue that should be considered as a priority in the UN agenda, with a view to identifying and implementing the appropriate ways and means to maximize its benefits. We welcome the General Assembly decision to convene a high level dialogue on international migration and development in 2006 with a view to discuss the various development related aspects of international migration and how it could better help the developing countries in meeting their development needs and the early realization of the internationally agreed development goals. In this regard, there is a need to enhance international cooperation on migration issues and make further efforts, including through appropriate mechanisms, to ensure that the human rights and dignity of all migrants and their families are respected and protected.

34. We welcome with appreciation the initiative of the Government of Peru to host a Special International Conference at the Ministerial level, during the first semester of 2005 in Lima, Peru, of Developing Countries with substantial international migrant flows.

NEPAD

35. We commend the dedication of the leaders and the people of Africa for the implementation of the New Partnership for Africa's development (NEPAD), which represents the collective determination and commitment of Africa to place its countries irrevocable on the road to sustainable economic and social development by taking control of its own development and by fighting poverty. We also welcome the endorsement of NEPAD by the United Nations General Assembly, the United Nations Economic and Social Council, the United Nations Secretary-General as well as the support of the G8 and the EU amongst others. We recognize the importance of these steps in achieving one of the most important goals of NEPAD, namely the establishment of a new relationship based on partnership and mutual responsibility and accountability between Africa and the international community, to overcome the continent's marginalization.

36. We fully endorse NEPAD and strongly support its implementation. We call on the United Nations and the international community, as well as civil society and the private sector to contribute effectively to the implementation of NEPAD, including through South-South cooperation.

37. We express our support for the work of the Office of the Special Advisor on Africa and the discharge of its responsibilities and calls on the United Nations entities to mobilize and provide the necessary resources to fully fund the activities of the office in support of NEPAD.

SIDS

38. We reiterate the importance of the implementation of the Programme of Action for the Sustainable Development of Small Island Developing States. We welcome the preparations being undertaken for the International Meeting for a full and comprehensive review of the Barbados Programme of Action to be held from 10-14 January 2005 in Mauritius. In this regard, we urge the donor community to contribute generously to the Voluntary Trust Fund to enable the full and effective participation of SIDS in the international meeting. We invite the international community to participate at the highest level and we seek their full support for the implementation of the outcome of the Mauritius International Meeting.

LLDCs

39. We recognize the special problems and needs of landlocked developing countries within a New Global Framework for transit transport cooperation for landlocked and transit developing countries. In this regard, we call for the full and effective implementation of the Almaty Programme of Action. We also stress the need for the implementation of the São Paulo Consensus adopted at the UNCTAD XI in São Paulo, Brazil on 18 June 2004, in particular paragraphs 66 and 84 thereof, by the relevant international organizations and donors in a multi-stakeholder approach.

LDCs

40. We underline the weak implementation of the Brussels Programme of Action for the Least Developed Countries (LDCs) for the Decade 2001-2010 and urge the LDCs development partners to undertake increased efforts and speedy measures with a view to meeting the goals and targets of the programme of action in a timely manner.

Social Development

41. We reiterate our commitment to the implementation of the Copenhagen Declaration and Programme of Action which recommended actions to create, in a framework of sustained economic growth, sustainable development and international cooperation, a national and international environment favourable to social development, eradicating poverty, enhancing productive employment, achieving full employment and fostering social integration. We commit ourselves to the outcome of the 24th Special Session of the General Assembly, entitled "World Summit for Social Development and beyond: achieving social development for all in a globalising world", held in Geneva, 26 June to 1 July 2000, which constituted a step forward for the promotion of social development for all at the national and international levels. In this regard, we underline the significance of the forthcoming 43rd Session of the Commission for Social Development, 9-18 February 2005, which will mark the tenth anniversary of the adoption of the Copenhagen Declaration and Programme of Action and we welcome the decision to convene a high-level plenary meeting during the forty-third session.

HIV/AIDS Pandemic

42. We reaffirm the importance of health as indispensable for sustainable development, and in this regard, we remain deeply concerned that HIV/AIDS, tuberculosis, malaria and other communicable diseases continue to threaten the achievement of economic and *social* development goals of developing countries. We remain concerned over the scourge of the HIV/ AIDS pandemic, and encourage the continued engagement by the international community in this matter, as manifested by the General Assembly High-Level Plenary meetings held on 22 September 2003 on New York. We welcome the successful outcome of the Fifteenth International

Conference on HIV/ AIDS held in Bangkok, Thailand on 11-16 July 2004. We welcome the Kathmandu Declaration adopted by the Ministerial Regional Conference on "Accelerating the Momentum to Fight Against HIV/ AIDS I South Asia" held from 3-4 February 2003 in Kathmandu, Nepal, in co-operation with the United Nations Children's Fund (UNICEF) and UNAIDS.

43. We welcome the Doha Declaration on the TRIPS Agreement and Public Health which clearly recognised that the TRIPS Agreement should be interpreted in a manner supportive of the right to protect public health, in particular, to promote access to medicine for all. We reiterate the need for greater international co-operation and flow of assistance, in particular from developed countries, in the fight against the pandemic, the need for according priority to multilateral approaches and also for directing adequate resources to the Global Fund for its augmentation and urgent disbursement to all countries in need.

Racism and Racial Discrimination

44. We welcome the progress made in the implementation of the outcome of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), held in Durban, South Africa, in September 2001 and call for the implementation of its objectives. We commend the international community for recognising that slavery and slave trade, including Trans-Atlantic slave trade, are crimes against humanity. The Conference also recognised that legacies of slavery, slave trade, colonialism, genocide and other forms of servitude have manifested themselves in poverty, underdevelopment, marginalisation, social exclusion and economic disparities. We also commend the Conference for having agreed on NEPAD as a framework within which amongst other, remedial measures for redressing the legacies of these practices could be addressed and call for the formulation of similar programmes of reparations to descendants of slaves in the African Diaspora.

45. We express our commitment to the effective follow-up and implementation of the Durban Declarations and Programme of Action, adopted by the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In this regard, we welcome the Commission on Human Rights Resolution 2002/68 and General Assembly 57/195 creating the necessary mechanisms and guiding the effective follow up to and implementation of the Durban Declaration and Programme of Action. We reiterate our opposition to all forms of racism, racial discrimination, xenophobia and related intolerance and express our deep concern on the resurgence of contemporary forms of racism, racial discrimination, xenophobia and related intolerance in various parts of the world. We also reiterate that all forms of racism, racial discrimination, xenophobia as well as foreign occupation and related intolerance, constitute serious violations of human rights, which should be rejected through all political and legal means. We condemn the misuse of the new communications technologies, including the internet for inciting racial hatred and intolerance.

46. We note with appreciation the establishment of appropriate mechanisms for the comprehensive follow-up to the WCAR and the effective implementation of the Durban Declaration and Programme of Action. We note that the process of the development of complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance, will commence in January 2005 in Geneva. We call on all the members of the United Nations to meet their commitment for the universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) by 2005.

Strengthening of the United Nations

47. We attach high priority to the reform of the United Nations and we reiterate our willingness to actively participate in the negotiations for the strengthening of the Organization, so that it can efficiently respond to the

current and future challenges including those concerns and interests of developing countries which constitute the vast majority of its membership. We reaffirm that such negotiations should be aimed at strengthening multilateralism, providing the Organization with a substantive capacity to fully and effectively meet the purposes and principles enshrined in the Charter, and at consolidating its democratic character and its transparency in the discussion, and implementation of decisions of Member States.

48. We note with deep concern that currently UNEP and UN-Habitat are over 90 percent funded through extra-budgetary resources leading to unpredictable, unreliable and unstable funding and thus affecting their planning and programme delivery. We therefore call on the Secretary-General to significantly increase regular budget funding to the two programmes to enable them to discharge their mandates effectively.

49. We welcome efforts to modernize and expand facilities at the United Nations Office at Nairobi. However, we emphasize that there should be substantial programmatic efforts to bring in line the functional, institutional and financial arrangement of this Office with those of similar UN Offices at Geneva and Vienna. In addition, we call on UNEP and UN-Habitat to adhere to the headquarters rule to ensure full utilization of the administrative and conference facilities at Nairobi.

Other major issues and developments

50. We express our satisfaction with the launching of the preparatory process of the 2nd phase of the World Summit on the Information Society by the first preparatory meeting held in Hammamet, Tunisia, from 24 to 26 June 2004 and call for widest possible attendance and active participation in the Summit to be held in Tunis from 16 to 18 November 2005. We reiterate the importance of the active participation of all countries at the highest level as well as the relevant stakeholders in the Summit in order to reach a common understanding of the information society, contribute to bridging the digital divide and giving a chance for all to benefit from the opportunities thus offered.

51. We take note with satisfaction of the establishment of the World Solidarity Fund in accordance with resolution 57/265 of the General Assembly, welcome the convening of the High-level Committee of the Fund and urge donor countries, international organizations, the private sector, relevant institutions, foundations and individuals to contribute to the Fund for the mobilization of the financial resources required for the immediate and effective operationalization of the World Solidarity Fund in order to allow it to contribute to the achievement of the Millennium Development Goals, particularly poverty eradication.

52. We welcome the progress made by Venezuela to establish the International Humanitarian Trust Fund with a first deposit of US$30 million and call for support to this initiative to assist developing countries in their efforts to improve the welfare and standard of living of their people.

53. We call upon the international community to provide the necessary assistance to landmine clearance operations, as well as to the rehabilitation of the victims and their social and economic integration into the landmine affected countries. We express concern over the residues of the Second World War in particular in the form of landmines which cause human and material damage and obstruct development plans in some developing countries. We demand that the States responsible for laying the mines outside of their territories assume responsibility for the landmines, cooperate with the affected countries to get rid of them and to contribute defraying the cost of clearance and provide compensation for any ensuing losses and for reclaiming the affected areas for productive purposes. In this regard, we express support for the assistance in the demining efforts in the south of Lebanon and call on Israel to provide the United Nations with all the maps and information on the location of the landmines that it has planted in the south of Lebanon during its occupation

which are hindering the development and rehabilitation of the south of Lebanon and preventing the agricultural exploitation of vast areas of rich agrarian land.

54. We note that the First Review Conference of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, is scheduled to be held in Nairobi, Kenya from November 29 to December 3, 2004, and urge participation at the "Nairobi Summit 2004 on a Mine-Free World" at the highest level.

55. We firmly reject the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures, including unilateral sanctions against developing countries, and reiterate the urgent need to eliminate them immediately. We emphasize that such actions not only undermine the principles enshrined in the Charter of the United Nations and international law, but also severely threaten the freedom of trade and investment. We, therefore, call on the international community neither to recognize these measures nor apply them.

56. We call upon the Government of the United States of America to put an end to the economic, commercial and financial embargo against Cuba which, in addition to being unilateral and contrary to the UN Charter and international law, and to the principle of neighbourliness, causes huge material losses and economic damage to the people of Cuba. We urge strict compliance with the Resolutions 47/19, 48/16, 49/9, 50/10, 51/17, 52/10, 53/4, 54/21, 55/20, 56/9, 57/11 and 58/7 of the United Nations General Assembly and express deep concern over the widening of the extra-territorial nature of the embargo against Cuba and over continuous new legislative measures geared to intensifying it. We therefore express concern and reject the new measures recently implemented by the US government, aimed at tightening the embargo. Those measures constitute a violation of Cuba's sovereignty and a massive violation of the rights of its people.

57. We express deep concern over the imposing of unilateral sanctions against Syria by the United States Government and consider the so-called "Syria Accountability Act", contrary to International Law and a violation of the purposes and principles of the United Nations Charter, and call upon the United States Government to null and void that act, and to resort to dialogue between the two countries based on respect and mutual interest for the best of the two nations and their peoples.

58. We reject the unilateral economic and financial sanctions imposed on the Sudan by the Government of the United States of America, and call for the immediate end of those sanctions.

59. We also express our deep concern over the air attack against the Elshifa Pharmaceutical Factory in the Sudan on 20 August 1998, and its negative impact on that country's economic and social development. We express our support and solidarity with the Sudan for its demand for a just and fair consideration of the matter by the United Nations on the basis of international law.

Situation in Palestine and the Middle East

60. We recognize the situations, special needs and suffering of peoples living under foreign occupation, especially when exacerbated by expansionism and settler colonialism, and we note that such situations have been reflected in the outcome documents of the major United Nations conferences and summits in the economic and social fields. We reaffirm in this regard the permanent sovereignty of peoples living under foreign occupation over their natural resources. We remain specifically concerned over the continuing tragic and dangerous situation in the Occupied Palestinian Territory, including East Jerusalem, which has resulted in the further grave deterioration of the social and economic conditions of the Palestinian people. In this regard,

we call for increased assistance and support to the Palestinian people until the realization of their national independence and their exercise of sovereignty in their State, Palestine, with East Jerusalem as its capital.

61. We call for the immediate and complete cessation and end to settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan. In this regard we express grave concern over Israel's ongoing construction and expansion of illegal settlements as well as its unlawful construction of its expansionist Wall in the Occupied Palestinian Territory, including in and around East Jerusalem. This has involved the illegal confiscation and destruction of Palestinian land and resources, the destruction of the livelihood of tens of thousands of protected Palestinian civilians, and the illegal, de facto annexation of expansive areas of Palestinian land.

62. We also call for the immediate Israeli withdrawal from the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan to the line of 4 June 1967 and the other Arab occupied territories. We reaffirm our support for the Middle East peace process started in Madrid in 1991, and aimed at achieving a comprehensive, just and lasting peace in the region, in accordance with Security Council resolutions 242 (1967), 338 (1973) and 425 (1978) and the principle of land for peace. In this context, we support the peace initiative adopted by the Arab Summit in Beirut in March 2002.

63. We call for the full implementation of the Roadmap Peace Plan for the Israeli-Palestinian track by the concerned parties.

64. We support the inalienable right of Lebanon to utilize its waters in accordance with international law and in particular to ensure the social and economic needs of its population in the liberated areas and villages. We also call on Israel to end its air violations of Lebanese sovereignty and other violations that severely damage the security situation which is a critical factor in promoting the tourism industry and the economy.